Pre-Litigation - Due Diligence

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The question of whether to commence or proceed with litigation, often comes down to a number of factors. These include but are not limited to:

- Determining whether a cause of action exists;
- Whether there is appropriate standing to bring the case;
- Whether damages or some form of loss has been sustained;
- Whether there is enough evidence to support the action and the level of loss being claimed;
- The credibility of witnesses; and
- The financial status of the person or organisation being sued and whether they would have the capacity to pay any judgement and/or adverse costs award.

Before proceeding with litigation, we believe that it is important to consider carrying out a pre-litigation due diligence investigation, to determine whether it is financially viable to pursue the action. There is no point wasting time and money if there is no potential to recover a judgement and/or costs order. This type of due diligence investigation should look at factors such as:

- Confirming the person/s or organisation's current address for the service of process;
- Ascertain ownership of any real assets;
- Identify whether the person/s is/are a Bankrupt;
- Identify what entities the person/s may be a director of;
- Identify what property the person/s/organisation may own;
- Confirm the person/s employment status; and
- Identify any assets subject to a PPSR lien.

By carrying out a proper due diligence investigation prior to commencing litigation, you can have information to make an informed decision on the best way forward in the matter and secure the best possible result for your client.

Risk & Security Management have a team of highly trained Investigators who specialise in due diligence investigations, and we are now offering this service as part of our service offerings so if you are interested in learning more, feel free to contact **Alex Caruana** for more information at **alex.caruana@risksec.com.au** or **0481 262 942**.
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